

CITY COUNCIL & GENERAL PLAN AGENDA

DECEMBER 2, 2003

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: Campos (excused)

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: Campos (excused)

7:00 p.m. - Public Hearings, Council Chambers, City Hall
General Plan Hearings, Council Chambers, City Hall
Absent – Council Members: Campos (excused)
- **Invocation (Mayor)**
Pastor Susan Bagley, Revival Strategies International delivered the Invocation.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**

1 CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Girl Scout Troop 1053. (Gregory)
HEARD IN THE EVENING
Vice Mayor Dando and Council Member Gregory joined Mayor Gonzales at the podium to present a commendation to the Girl Scout Troop 1053 in honor of their outstanding work with the community and assisting with senior citizens and helping the homeless. Troop leader Mrs. Legaspi-Carter thanked the Mayor and Council for their commendation.

1 CEREMONIAL ITEMS

- 1.2 Presentation of plaques and gift certificates to the Crossing Guards who were injured in the line of duty. (Mayor)
Mayor Gonzales was joined at the podium by Captain Randy Cooper to present plaques and gift certificates to Crossing Guards, Chieu Nguyen, Toan Nguyen and Phyllis Korataj who were injured in the line of duty. Captain Randy Cooper also presented a plaque to Stephen Smith, Fred Bates and Mark Norman from the Silicon Valley Auto Dealers Association in recognition of their continued support for student pedestrian safety.
- 1.3 Presentation of a commendation to Dave McPherson, of the City Auditor's Office, for receiving the Bruno Marchetti Award. (Reed)
Deferred to 12/9/03.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of City Council Minutes for:

- (a) Regular meeting of September 23, 2003
 - (b) Joint Council/Redevelopment Agency meeting of September 23, 2003
- Approved.**

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27018 – Amends Chapter 23.04 of Title 23 of the San José Municipal Code to establish regulations for skyline signs and roof signs in the Edenvale Industrial Redevelopment Area.
Ordinance No. 27018 adopted.
- (b) ORD. NO. 27019 – Prezones certain real property situated at the south side of Curtner Avenue, approximately 630 feet westerly of Bascom Avenue, to A(PD) Planned Development Zoning District. PDC 03-046
Ordinance No. 27019 adopted.
- (c) ORD. NO. 27020 – Prezones certain real property situated at the east side of Ruby Avenue, approximately 780 feet northerly of Murillo Avenue (2430 Ruby Avenue) to R-1-2 Single Family Residence Zoning District. C 01-032
Ordinance No. 27020 adopted.
- (d) ORD. NO. 27021 – Rezones certain real property situated at the southeast corner of Story Road and Adrian Way to CP Commercial Pedestrian Zoning District. C 03-058
Ordinance No. 27021 adopted.

2 CONSENT CALENDAR

2.3 Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #7, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

Approved.

2.4 Approval of an agreement for natural gas.

Recommendation: Adoption of a resolution authorizing the Director of General Services to:

- (a) Review natural gas prices and availability on an ongoing basis;
- (b) Assess the feasibility of purchasing natural gas from alternate sources; and
- (c) Execute agreements with Pacific Gas and Electric for the purchase of natural gas in support of facilities and operations throughout the City; without further Council approval other than the appropriation of funds.

CEQA: Not a Project. (General Services)

Resolution No. 71843 adopted.

2.5 Approval to declare a portion of City-owned land as surplus to the needs of the City and approving its sale.

Recommendation: Adoption of a resolution:

- (a) Declaring said 3,502 square feet foot portion of now City-owned land, located on the west side of Clark Street, between Willow Street and Dorothy Avenue (APN 434-02-079), surplus to the needs of the City; and
- (b) Authorizing its sale to Reyes and Diane Palacios (the adjoining property owner) for one hundred forty thousand dollars (\$140,000).

CEQA: Exempt, PP99-06-018. Council District 4. (General Services)

Resolution No. 71844 adopted.

2 CONSENT CALENDAR

2.6 Approval of an agreement to develop the San José and County Aging Services Strategic Plan.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with the consulting firm of MGT of America to update both the 1989 Senior Needs Assessment and the 1994 Aging Master Plan into one document called the San José and County Aging Services Strategic Plan in the amount not to exceed \$215,000, for the period from date of execution to one-year post execution date. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Resolution No. 71845 adopted.

Staff directed to ensure language and neighborhood diversity are adhered to within the San José and County Aging Services Strategic Plan and for Staff to evaluate building Multi-Generational centers as opposed to youth and senior centers only. Staff directed to provide a status report pertaining to how the Senior Master Plan aligns with the policies and outcomes of other Master Plans to enable consistency in the alignment of services the City should be providing. Staff directed to provide a progress report to Council evaluating the measure of success of implementing the new plan and to ensure all documentation drafted provides the information needed to easily integrate them into future City budgets and reports.

2.7 Approval of actions related to the annexation of Cambrian No. 32.

Recommendation: Adoption of a resolution initiating proceedings and setting December 16, 2003 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Cambrian No. 32, which involves the annexation to the City of San José of 1.83 acres of land more or less consisting of one parcel approximately 1.00 acre located at the south side of Curtner Avenue, approximately 630 feet westerly of South Bascom Avenue, and includes a portion of right-of-way of Curtner Avenue and South Bascom Avenue totaling 0.83 acre, located approximately between 300 feet east of Joseph Avenue and the intersection of Curtner and South Bascom Avenues, and between the intersection of Curtner and South Bascom Avenues and Lyle Lane, and generally bounded by the City of San José Annexations Cambrian Nos. 11, 25, 28, 7, 17, 5, 10, and 12-A, Camden Nos. 1, and 2, and Foxworthy No. 3, and the detachment of the same from West Valley Sanitation District, Santa Clara County Lighting Services, Central Fire Protection District, and Santa Clara County (Library Services) Area No.1. CEQA: Mitigated Negative Declaration, PDC03-046. Council District 9. (Planning, Building and Code Enforcement)

Resolution No. 71846 adopted.

2.8 Approval of actions related to the vacation of a portion of Old Bayshore Highway.

Recommendation: Adoption of a resolution to vacate Old Bayshore Highway, west of North 13th Street, and set a public hearing on January 13, 2004 at 1:30 p.m. CEQA: Exempt, PP03-02-043. Council District 4. (Public Works)

Resolution No. 71847 adopted.

2 CONSENT CALENDAR

2.9 Approval of an agreement for consultant services for the Floyd and Locust Street Park and Sixth and William Street Park Projects.

Recommendation: Approval of a second amendment to the agreement with Callander Associates Landscape Architecture, Inc. for consultant services for the Floyd and Locust Street Park and Sixth and William Street Park Projects, extending the term from December 31, 2003 to December 31, 2004, and increasing the total compensation by \$18,000, for a total agreement amount of \$185,000. CEQA: Not a Project. Council District 3. SNI: Washington. (Public Works)

Approved.

Staff directed to provide a construction timeline and a confirmation of construction dollars for the project and to provide this information to Council offline.

2.10 Approval of actions to accept a donation of property for the King Road Widening Project (Phase II).

Recommendation: Approval of an agreement with Entravision Communications Corporation for the donation to the City of San José of two parcels of land and three nonexclusive one-year temporary construction easements on the west side of King Road between Barberry Lane and King Court. CEQA: Exempt, PP03-10-321. Council Districts 7 and 8. (Public Works/Transportation)

Approved.

2.11 Approval of a contract for the Traffic Signal Installation at Alum Rock Avenue and McCreery Avenue Project.

Recommendation: Report on bids and award of contract for the Traffic Signal Installation at Alum Rock Avenue and McCreery Avenue Project to the low bidder, San José Signal Electric Construction, Inc., in the amount of \$186,667, and approval of a contingency in the amount of \$18,700. CEQA: Exempt, PP99-07-156. Council District 5. SNI: Gateway East, Mayfair. (Public Works/Transportation)

Approved.

2.12 Acceptance of the City Auditor's monthly report.

Recommendation: Acceptance of the City Auditor's monthly *Report of Activities and Findings through November 15, 2003*. (City Auditor)
(Rules in Lieu referral 11/16/03)

The City Auditor's monthly report was accepted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – November 19, 2003

Vice Mayor Dando, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review December 2, 2003 Draft Agenda

The Committee recommended approval of the December 2, 2003 City Council agenda with four additions.

(2) Add New Items to November 25, 2003 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended five additions to the November 25, 2003 City Council agenda.

Regarding the City Clerk's addition to the agenda, "*Interview Civil Service Commission applicants and appoint three commissioners to fill four-year terms ending December 1, 2007*", City Clerk Patricia O'Hearn informed the Committee that one incumbent Civil Service Commissioner is unable to attend the Commission interviews on November 25th. Council Member Cortese suggested the City develop a policy stating that commission interviews take place on the date scheduled, and should not be continued to subsequent Council meetings. City Attorney Richard Doyle noted that interviewing incumbent commissioners is a City policy that could be waived. In lieu of postponing the incumbent commissioner's interview, the Committee directed the Civil Service Commission liaison to submit a memorandum to Council describing the incumbent's service to the Commission.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report listing six staff reports outstanding for the November 18, 2003 Council agenda.

(4) Review December 2, 2003 General Plan Agenda

(c) Legislative Update

(1) State

Director of Intergovernmental Affairs Betsy Shotwell updated the Committee regarding various issues the new Governor is presenting to the reconvened legislature.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – November 19, 2003 (Cont'd) Vice Mayor Dando, Chair

- (2) Federal
There is no report.
- (d) Meeting Schedules
 - (1) Approve Budget Study Session on January 15, 2004
The Committee recommended approval of a two-part Study Session to consider budget projections and spending priorities for the City and Redevelopment Agency on Thursday, January 15, 2004, from 9am-noon and from 1:30-4:30 pm in the Health Building.
 - (2) Approve City Council Meeting Schedule for period January-July 2004
The Committee recommended cancellation of the March 2, 2004 evening Council session and approved the remainder of the City Council Meeting schedule for January-July 2004 as submitted by the City Manager's Office.
- (e) The Public Record
There was no Public Record filed.
- (f) Appointment to Boards, Commissions and Committees
The Committee directed the City Clerk to conduct a blind drawing for those commissions with more than one vacancy and varying term ending dates, with the results of the draw noted in the Rules Committee report. The Committee recommended the issues raised by the Project Diversity Screening Committee be referred to the Board and Commission Review being conducted by the City Manager's Office and also recommended the following appointments:
 - (1) Advisory Commission on Rents
The Committee recommended appointment of Scott Lieberman to a term ending December 31, 2006 and directed the City Clerk to readvertise in February for the other two vacant positions.
 - (2) Disability Advisory Commission
The Committee deferred this item to December 3, 2003.
 - (3) Housing Advisory Commission
The Committee recommended appointment of Erwin Ordonez and George Colacicco to terms ending December 31, 2006.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – November 19, 2003 (Cont'd)

Vice Mayor Dando, Chair

- (f) Appointment to Boards, Commissions and Committees (Cont'd.)
 - (4) Human Rights Commission
The Committee recommended appointment of Raj Bhanot, Ignacio “Hank” Enriquez, Herman Levy and Robert Sippel to terms ending December 31, 2006.
 - (5) Mobile Home Advisory Commission
The Committee directed the City Clerk to readvertise the vacant position in February.
 - (6) Parks and Recreation Commission
The Committee deferred this item to December 3, 2003 Rules Committee.
 - (7) Senior Citizens Commission
The Committee deferred this item to December 3, 2003 Rules Committee.
 - (8) Small Business Development Commission
The Committee recommended appointment of Kidane Haile, Charles Hoffman and Chuck Mondave’ to terms ending December 31, 2006; and Spencer Horowitz to an unexpired term ending December 31, 2004.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve Voting Delegate at the 2003 Annual Business Meeting for the National League of Cities
The Committee recommended approval to designate Vice Mayor Dando as the voting delegate at the December 13, 2003 Annual Business Meeting for the National League of Cities.
 - (2) Report on proposed amendments to Comprehensive Land Use Plan which affect local airports
The Committee directed the Administration to present Director Stephen Haase’s letter to the Airport Land Use Commission scheduled for discussion at their 6 p.m. meeting this date and to request a 90-day deferral of the proposed amendments to the Comprehensive Land Use Plan.
- (h) Oral communications
There were none presented.
- (i) Adjournment
The meeting adjourned at 2:45 P.M.

The Rules Committee Report and Actions of November 19, 2003 were accepted.

3 STRATEGIC SUPPORT SERVICES

- 3.3 Report of the Making Government Work Better Committee**
Council Member Campos, Chair
No Report.

- 3.4 Adoption of a resolution referring ballot measures to the March 2, 2004 election.**

Recommendation: Adoption of a resolution referring ballot measures to the March 2, 2004 election. (City Clerk)

- (a) Approval to add an item to the March 2004 ballot to amend the City Charter regarding Design-Build Procurement Process. (Mayor)

Resolution No. 71848 adopted.

- 3.5 Approval of an agreement to manage the Hayes Mansion.**

Recommendation: Approval of a Management Agreement with Dolce International/San Jose, Inc. to operate the Hayes Mansion for ten years with two, five-year options, for a management fee of 3% of Gross Revenues, an Incentive Fee, and payment by City of the expenses of the operation, not covered by revenues. (City Manager's Office/Finance)

Approved.

Staff directed to report back to Council in 6 months or within the Budget process with a project status report and to include the environmental standards for the Hayes Mansion.

- 3.6 Council appointments to Federated Retirement Board.**

Recommendation: Appointment of one employee/member to the Federated Retirement Board to a four-year term ending 11/30/07. (City Clerk)

[Deferred from 11/25/03 – Item 3.4(a)]

Mike M. Yoshimoto was appointed to the Federated Retirement Board.

Staff directed to create a clearly outlined list of campaigning rules and requirements for applicants to the Federated Retirement Board and Commissions.

Noes: Chavez, Cortese, Gregory, LeZotte.

- 3.7 Approval of the submission of the Historical Heritage Grant Application.**

Recommendation: Adoption of a resolution approving the submission of the Historical Heritage Grant Application to the County of Santa Clara by the grant deadline of December 5, 2003. (Chavez)

(Rules in Lieu referral 11/16/03)

Resolution No. 71848.1 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – November 17, 2003 Council Member Chavez, Chair

- (a) Review San José's Vehicle Abatement Policies
The Committee accepted the Community Preservation Ordinance Update and return to the Committee prior to budget addressing:
- What does our stake in the ground need to be.
 - What role should the Council offices be involved.
 - How the neighborhood associations, vehicle abatement and the Police Department need to be a partner in that direction.
 - Attach the money component with the information provided.
 - Survey of surrounding sister cities in the county on their timeline for response and their population size. Include cities of similar size.
- (b) Review Standards for Street Cleanliness
The Committee accepted the Standards for Street Cleanliness Report, with direction to staff to report back with the vehicle abatement team on the hot spots regarding parking problems and address:
- Collisions cleanups leave debris from the accident.
 - A lot of glass in the curbs and gutters.
 - How is the street sweeping getting in the newsletters in languages and correct.
 - Flyer distribution by the community on street sweeping calendars.
- (c) Review Strategies and Effects of the Neighborhood Investment Task Force and Grant Processes for Neighborhood Organization
The Committee accepted the Neighborhood Investment Task Force and Grant Processes for Neighborhood Organization Report, with the recommendations as stated:
- Looking outside of SNI areas.
 - Encouraging customers in the community to become partners with the City of San José in grant writing.
 - Include Auditor in process.
 - Staff assignments placed on the chart and reporting on what was applied for and what was received.
- (d) Oral petitions – None.
- (e) Adjournment
The meeting adjourned at 3:37 P.M.

The Building Strong Neighborhoods Report and Actions of November 17, 2003 were accepted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

No Report.

4.3 Public Hearing and approval of various actions related to the development of twelve single-family homes.

Recommendation: Public Hearing and adoption of a resolution:

- (a) Approving a disposition and development agreement with Silicon Valley Habitat for Humanity, or an affiliated entity, including a predevelopment loan of up to \$100,000, for the development of single-family homes on the following sites in the City of San José:

- (1) 2 units at the S/w corner of Murphy and Ringwood Avenues;
- (2) 6 units at the S/s of Murphy Avenue, between Ringwood and Lundy Avenues;
- (3) 3 units at the S/s of Murphy Avenue, between Ringwood Avenue and Lakepark Drive; and
- (4) 1 unit on Willow Street, between Locust and Palm Streets.

- (b) Finding that the use of 20% Low- and Moderate-Income Housing Funds for the following projects is of benefit to the Redevelopment Project Areas in San José:

- (1) S/w corner of Murphy and Ringwood Avenues;
- (2) S/s of Murphy Avenue, between Ringwood and Lundy Avenues; and
- (3) S/s of Murphy Avenue, between Ringwood Avenue and Lakepark Drive.

CEQA: Exempt, PP03-04-128. Council Districts 3 and 4. SNI: Washington. (Housing)
The Public Hearing was held and Resolution No. 71849 adopted.

4.4 Approval of the Economic Development Strategy.

Recommendation: Adoption of a resolution approving the Economic Development Strategy. CEQA: Not a Project. (Economic Development)

(Deferred from 11/25/03 – Item 4.4)

Resolution No. 71850 adopted.

Staff directed to provide a list of tactics the City will use for the proposed Economic Development Strategy and to include any tactics that are dropped or added to the existing report and for Staff to provide Council with an Annual Report separate from the Budget process that focuses on the progress and success of the programs.

4.5 Public Hearing on the historical property contract for the Twohy Building.

Recommendation: PUBLIC HEARING ON HISTORICAL PROPERTY CONTRACT for the Twohy Building, City Landmark No. HL01-134, located at 200-210 South First Street and adoption of a resolution approving a historic landmark preservation agreement. (CIM/Twohy LLC, Owner). CEQA: Exempt. (Planning, Building, and Code Enforcement)

MA 03-002 - District 3

(Deferred from 11/25/03 – Item 4.6)

The Public Hearing was held and the historical property contract for the Twohy Building was approved and Resolution No. 71851 adopted.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee

Council Member Yeager, Chair

No Report.

5.2 Approval of an agreement for consultant services for the Cambrian Branch Library Project.

Recommendation: Approval of an agreement with Anderson Brulé Architecture, Inc. for consultant services including project design, preparation of construction documents and construction administration services for the Cambrian Branch Library Project, for a term from December 1, 2003 to November, 2006, for an amount not to exceed \$1,275,000.

CEQA: Not a Project. Council District 9. (Public Works/Library)

Approved.

5.3 Approval of revisions to the Operating Arts Grant Program.

Recommendation:

(a) Adoption of a resolution approving the following revisions to the Operating Grant Program:

- (1) Set forth in the grant guidelines estimated ranges of reference percentages of operating revenues used in determining grant amounts in each grant category of the Operating Grant Program that reflect more realistically the recent decline in City's Transient Occupancy Tax revenues (TOT) and the availability of funds for granting;
- (2) Revise the revenue period to which the percentages mentioned above refer from a single year, the most recently completed fiscal year at the time of the grant-application deadline, to the average of revenues over the three most recently completed fiscal years at the time of the application deadline.
- (3) Extend the basic method for determining recommended grant awards used in the Artist Organization (AO) and Resident Arts Organization (RAO) categories to the Professional Arts Institution (PAI) and Resident Arts Institution (RAI) categories, and retire the three-part formula presently used in the PAI and RAI categories.
- (4) In the first year of implementation of these revisions, recommend grant awards in the PAI and RAI categories that are the average of the amounts proposed by the review panel without using the three-part formula and the amounts that would have resulted had the three-part formula been in use.
- (5) As in the case of the AO and RAO categories, should the review panel recommend that an application in the PAI or RAI categories not be funded as a result of the evaluation, then the panel recommendation for no funding will supersede any potential grant calculations made pursuant to the foregoing criteria.

CEQA: Not a Project. (Conventions, Arts and Entertainment)

Resolution No. 71852 adopted.

5 RECREATION & CULTURAL SERVICES

5.3 Approval of revisions to the Operating Arts Grant Program. (Cont'd)

Recommendation:

- (b) Adoption of a resolution approving a change to the Project & Program Arts Grant Program by reducing the maximum grant amount in the Project & Program Arts Grant Program from \$30,000 to \$18,000 for FY 2004-05, in order to be better aligned with the amount of funds available to support arts grants. CEQA: Not a Project. (Conventions, Arts and Entertainment)

(Deferred from 11/25/03 – Item 5.3)

Resolution No. 71853 adopted.

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee

Council Member Cortese, Chair

No Report.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing and approval of the Countywide Nondisposal Facility Element.

Recommendation: PUBLIC HEARING and adoption of a resolution approving and adopting the sixth amendment to the Countywide Nondisposal Facility Element to identify the following nondisposal facilities: California Waste Solutions Recycling & Transfer Station at 1005 Timothy Drive, San José; Environmental Management Systems Recycling and Processing Facility, Milpitas; and Pacific Coast Recycling Facility, Gilroy. CEQA: Exempt, Public Resources Code Section 41735. (Environmental Services)

The Public Hearing was held and Resolution No. 71854 adopted.

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

9.1 Independent Police Auditor's Mid-Year Report.

Recommendation:

- (a) Presentation of the 2003 Independent Police Auditor's Mid-Year Report. (Independent Police Auditor)
- (b) Response to the recommendations contained in the 2003 Independent Police Auditor's Annual Report. (Police)

The Independent Police Auditor's Mid-Year Report was accepted.

Council approved Mayor Gonzales' memorandum, dated December 1, 2003, recommending that any consideration of implementation of the Independent Police Auditor's recommendations in her Mid-Year Report and any new recommendations related to police use-of-force and officer-involved shootings be deferred until the new police chief is appointed anticipated to be in January 2004, to enable the new chief to review the report and findings and give his or her thoughts on the IPA's recommendations Council approved the memorandum from Council Members Cortese, Chavez, Gregory and Williams, dated December 2, 2003, recommending the acceptance of the Independent Police Auditor's (IPA) 2003 Mid-Year Report and directing the City Manager to implement the below administrative actions pending the appointment of a new Police Chief: (a) Designate a liaison for the family of a victim involved in any officer-involved shootings or fatal incident with a public safety officer in collaboration with the City Manager's office in order to provide and consistent and clear point of contact and message, (b) The San José Police Department (SJPd) shall develop and provide written materials that describe the process, agencies, and general information that addresses frequently asked questions about officer-involved shootings or fatal incident with a public safety officer, (c) The SJPd shall provide an annual report of the Officer-Involved Shooting Review Panel to the City Council in conjunction with the IPA's Mid-Year Report to the City Council; and for all other items to be brought back to Council in April 2004.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Item 10.1 in a Joint Session at 4:51 P.M.

10.1 Presentation on proposed Design Guidelines for Downtown Development.

Recommendation: Presentation on proposed Design Guidelines for Downtown Development. (City Manager's Office/Redevelopment Agency)
(Deferred from 11/18/03 – Item 10.1)

The presentation on the proposed Design Guidelines for Downtown Development was accepted.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.2 Adoption of a resolution by the Redevelopment Agency approving a Development Agreement with Ebay, Inc.

Recommendation: Adoption of a resolution by the Redevelopment Agency approving a Development Agreement with Ebay, Inc. CEQA: Resolution to be adopted. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (7-0). (Planning, Building, and Code Enforcement)

Heard in the Evening concurrently with Item 12.2(b), immediately after General Plan Item 12.4.

CEQA Resolution No. 71857 adopted.

Agency Resolution No. 5453 adopted.

The Redevelopment Agency Board portion of the meeting adjourned at 5:01 P.M.

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:
None.

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:
None.
- Open Forum—
None.

11 PUBLIC HEARINGS

(To be heard by the City Council at 7:04 p.m.)

11.1 Public Hearing and approval of an ordinance modifying Downtown Zoning Regulations.

Recommendation: PUBLIC HEARING on approval of an ordinance amending Chapter 20.70 of Title 20 of the San José Municipal Code by modifying the provisions of the Downtown Zoning Regulations. CEQA: Resolution No. 65459, PP03-05-169.

(Planning, Building, and Code Enforcement)

(Continued from 6/3/03 – Item 11.3 et al., and 11/18/03 – Item 11.2)

Continued to 1/13/04, to be heard concurrently with Item 11.3.

11.2 Public Hearing on single-family house permit for 408 S. 13th Street.

Recommendation: PUBLIC HEARING ON SINGLE-FAMILY HOUSE PERMIT to construct 514 square foot 1st floor addition and 422 square foot 2nd floor addition to an existing 2,152 square foot 2-story single-family house, resulting in a Floor-Area-Ratio of 0.48 and overall height of 33 feet, and to remove an existing avocado tree measuring 58” in circumference, located at the east side of South 13th Street, approximately 100 feet southerly of East San Salvador Street (408 S. 13th Street), on a 0.15 gross acre site.

(James & Valerie Ziegler, Owner). CEQA: Exempt. SNI: University. Director of Planning, Building and Code Enforcement recommends approval with tree replacement ratio at 2:1 and Planning Commission recommends approval (7-0-0) with tree replacement ratio at 4:1.

SF 03-028 - District 3

Resolution No. 71859 adopted.

11.3 Public hearing on Director-initiated conventional rezoning of the property located within the area generally bounded 4th Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Bassett Street.

Recommendation: PUBLIC HEARING ON DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located within the area generally bounded 4th Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Bassett Street, from CG General Commercial, R-M Multiple Residence, R-2 Two-Family Residence, LI Light Industrial Districts to DC Downtown Commercial District and DC-NT 1 Downtown Commercial-Neighborhood Transition 1 Districts, to allow mixed use, commercial, and residential uses on approximately 389 gross acres. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). (Planning, Building, and Code Enforcement)

C 03-072 - District 3

(Continued from 10/21/03 – Item 11.9 and 11/18/03 – Item 11.5)

Continued to 1/13/04, to be heard concurrently with Item 11.1.

11 PUBLIC HEARINGS

11.4 Public Hearing on appeal of the EIR and on the development rezoning of the property located at 5600 Cottle Road.

Recommendation:

- (a) PUBLIC HEARING ON APPEAL OF AN ENVIRONMENTAL IMPACT REPORT (SCH # 2002122091) for the Lowe's Planned Development Rezoning from IP Industrial Park Zoning District to IP(PD) Planned Development Zoning District, to allow development of up to 222,673 square feet of commercial uses on an 18.75-acre site located on the southeast corner of Blossom Hill and Cottle Roads. The proposed project is located on the northern portion of IBM's existing Cottle Road facility, currently occupied by the vacant IBM Research Building 25 that is eligible for the California Register of Historic Resources. The proposed project would demolish IBM Research Building 25 and remove 156 ordinance-sized trees from the site. Director of Planning, Building and Code Enforcement and Planning Commission recommend to certify the Final EIR (6-0-0-1; James abstained).

PDC02-086 - District 2

Council took the following actions: (1) Made Findings of Overriding Considerations, (2) Approval of denial of the appeal and certifying the Environmental Impact Report, (3) Staff directed to ensure information pertaining to the wages and benefits for the construction and operation costs for Lowe's Inc. be provided to Council and Staff directed to provide detailed written documentation to Council on all proposed projects to allow Council the ability to fully evaluate the projects' needs and requirements.

Noes: LeZotte. Disqualified: Williams.

- (b) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of Blossom Hill and Cottle Roads (5600 Cottle Road), from IP-Industrial Park Zoning District to IP (PD) Planned Development District, to allow approximately 222,673 square feet of commercial uses on a 18.75 gross acre site. The proposed development would be located in the northeast portion of IBM's/Hitachi's existing Cottle Road facility. The site is currently occupied by the vacant IBM/Hitachi Research Building 25 that is eligible for the *California Register of Historic Resources*. The proposed project would demolish IBM/Hitachi Research Building 25 and remove 156 ordinance-sized trees from the site. (Hitachi Global Storage Technology, Owner; Lowes Home Improvement Warehouse Inc., Developer). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).

PDC 02-086 - District 2

(Continued from 11/4/03 – Item 11.8)

CEQA Resolution No. 71860 adopted.

Ordinance No. 27032 passed for publication.

11 PUBLIC HEARINGS

11.4 Public Hearing on appeal of the EIR and on the development rezoning of the property located at 5600 Cottle Road. (Cont'd.)

Recommendation:

(b) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING (Cont'd.)

Council approved Mayor Gonzales', Vice Mayor Dando, and Council Member Chavez' memorandum, dated December 2, 2003, recommending approval of the subject Planned Development Rezoning for the proposed Lowe's Home Improvement Warehouse in Edenvale Redevelopment Project Area with the following additional conditions of approval:

- (1) Environmental Issues: Tree mitigation that requires for each single ordinance-size tree removed shall be replaced by four 36" box trees. This equals a ratio of 4:1. This mitigation will bring 625 36" box trees to this site to the surrounding community; Additional mitigation shall require that each non-ordinance sized tree removed shall be replaced by a single 36" box tree. This mitigation ensures non-ordinance sized trees removed are replaced on a 1:1 ratio totaling 209 new trees; Tree mitigation outlined above can take place by replacing trees on-site or a donation to Our City Forest for trees to be placed in the surrounding areas. Replacement trees shall be 36" box trees or of equal value; In addition to the 89 trees already being saved on-site, Lowe's will preserve another 20 trees on the perimeter identified by Lowe's.**
- (2) Historical issues: Historical mitigation outlined in the EIR to do; photo documentation, preservation of artwork, reproduction of architectural drawings to preserve the memory of the building, creation of a public exhibit, and salvage of historical architectural features; Preserve a portion of a wall from Building 025 and develop a mural of photographs and historical data to convey the significance of this site and the "flying head" disk drive. The applicant shall integrate this wall on site. An actual wall from Building 025 will accurately frame the mural of photographs and historical data on this property; Contribute \$10,000 to a citywide industrial land historic building survey. This survey will allow the City of San José to conduct a survey of industrial buildings. It is an effort to provide certainty to the development process for future redevelopment of our industrial areas.**

Noes: LeZotte. Disqualified: Williams.

11 PUBLIC HEARINGS

11.5 Public hearing on planned development rezoning of the property located at Edenvue Drive and Monterey Road.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeasterly corner of Edenvue Drive and Monterey Road, from CP Commercial Pedestrian to A(PD) Planned Development Zoning District, to allow an existing approximately 2,200 square foot retail building, and the construction of a new, approximately 3,922 square foot retail building and associated improvements on 0.55 acre. (Messina Richard V Trustee & Et Al, Owner). CEQA: Exempt. SNI: Edenvale/Great Oaks. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC 03-069 - District 2

(Continued from 11/18/03 – Item 11.8)

Ordinance No. 27029 passed for publication.

Staff directed to re-evaluate the moving of a public phone located on the 7-Eleven establishment property and ensure they are meeting with the community's needs.

11.6 Public Hearing on planned development rezoning of the property located at 360 S. Winchester Blvd.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southeast corner of Stevens Creek and South Winchester Boulevards (360 S. Winchester Blvd.), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow operation of health club uses between the hours of 5:00 a.m. and midnight (operation currently allowed between 6:00 a.m. and midnight) at Santana Row on a 40.79 gross acre site. (FRIT San José Town & Country Village, LLC, Owner/Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC 03-083 - District 6

Ordinance No. 27030 passed for publication.

11.7 Public Hearing on conforming rezoning of the property located at 500 W. San Carlos Street.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the southwest corner of West San Carlos and Josefa Street (500 W. San Carlos Street), from LI Light Industrial Zoning District to CP Pedestrian Commercial Zoning District, to allow commercial uses on a 0.18 gross acre site. (Cismondi Edward L. Trustee, Owner). CEQA: Resolution No. 65459. SNI: Delmas Park. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 03-080 - District 3

Deferred to 12/16/03.

11 PUBLIC HEARINGS

11.8 Public Hearing on planned development rezoning of the property located at South Fifth and Keyes Streets.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of South Fifth and Keyes Streets, from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District, to allow up to 148 multi-family attached residences and 2,500 square feet of retail space on a 1.99 gross acre site. (Carolyn Gleeson, et al., Owner). CEQA: Mitigated Negative Declaration. SNI: Spartan/Keyes. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC 03-029 - District 3

Ordinance No. 27031 passed for publication.

Council approved Council Member Chavez' memorandum, dated December 2, 2003, recommending approval of the Planning Commission and Staff recommendation with the following additions: Direct Staff to request available PDO funds from SJRA upon approval of the Building Permits, consistent with current requirements for private, market rate projects; Accept the applicant's offer to match the \$70,000 contribution by an adjacent development for completion of a traffic signal at 7th and Martha.

11.9 Public Hearing on conforming planned development rezoning of the property located at 2347 N. 1st Street.

Recommendation: PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at west side of North First Street at the westerly terminus of Component Drive (2347 N. 1st Street), from IP(PD) Planned Development Zoning District to IP(PD) Planned Development Zoning District, to make modifications to the zoning development standards, including an increase in allowable building height from 105 to 210 feet, changes to the parking standards and other minor changes for Research and Development office buildings on a 40.92 gross acre site. (Abn Amro Leasing, Inc., Owner/Developer). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC 03-073 - District 4

Heard immediately after General Plan Item 12.3

Ordinance No. 27028 passed for publication.

12 GENERAL PLAN PUBLIC HEARINGS

(To be heard by the City Council at 7:04 p.m.)

12.1 Approval of General Plan Consent Calendar items.

Approved.

12.2 PUBLIC HEARING on General Plan Text Amendment request and Development Agreement with EBAY Inc., for the property generally bounded by US Highway 101, Guadalupe Parkway, North First Street, and Karina Court on a 47.8-acre site.

Recommendation:

- (a) PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT request to amend the General Plan Urban Design Policies to increase the maximum building height from 120 feet to 150 feet on a 47.8-acre site. (EBAY Inc., Owner/Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

GP03-T-08 - Council District 4

CEQA Resolution No. 71857 adopted.

- (b) PUBLIC HEARING on and approval of an ordinance approving a Development Agreement with EBAY, Inc. to allow for the development of 2 million square feet of Industrial Park development on the subject site including the transfer of 1,150,000 square feet of floor area credits to the subject property. (EBAY Inc., Owner/Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). DA EBAY - Council District 4

Heard concurrently with Item 10.2, immediately after General Plan Item 12.4

CEQA Resolution No. 71857 adopted.

Ordinance No. 27027 passed for publication.

Council took the following actions: (1) Made Findings of Overriding Considerations. (2) Staff/Planning Commission recommendations to amend the General Plan Urban Design Policies to increase the maximum building height from 120 feet to 150 feet on a 47.8 acre site, was tentatively approved. Vote: 10-0-1-0. Absent: Campos.

12.3 PUBLIC HEARING on General Plan Text Amendment for the property located on the west side of North First Street at the terminus of Component Drive.

Recommendation: PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT request to amend the Urban Design Policies of the General Plan to increase the maximum building height from 120 to 210 feet for property located on the west side of North First Street at the terminus of Component Drive on a 40.9 acre site. (BEA Systems, Owner/Applicant). CEQA: Resolution No. 60197, Rincon De Los Esteros Redevelopment Area. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

GP 03-T-09 - Council District 4

Staff/Planning Commission recommendation to amend the Urban Design Policies of the General Plan to increase the maximum building height from 120 to 210 feet for property located on the west side of North First Street at the terminus of Component Drive on a 40.9 acre site, was tentatively approved.

Vote: 10-0-1-0. Absent: Campos.

12 GENERAL PLAN PUBLIC HEARINGS

12.4 PUBLIC HEARING on modifications to the North San Jose Area Development Policy.

Recommendation: PUBLIC HEARING ON MODIFICATION TO THE NORTH SAN JOSÉ DEVELOPMENT POLICY to increase the maximum allowable building height consistent with the San José 2020 General Plan. CEQA: San José 2020 General Plan Environmental Impact Report, Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PP03-10-311 - Council Districts 3 and 4

Heard immediately prior to General Plan Item 12.2.

Resolution No. 71856 adopted.

Staff/Planning Commission recommendation to *increase the maximum allowable building height consistent with the San José 2020 General Plan*, was tentatively approved. Vote: 10-0-1-0. Absent: Campos.

12.5 Adoption of a resolution approving all General Plan amendment actions taken on December 2, 2003.

Recommendation: Adoption of a resolution approving all General Plan amendment actions taken on December 2, 2003. (Planning, Building and Code Enforcement)

Resolution No. 71858 adopted.

- Open Forum
None.

- Adjournment
THE FOLLOWING RESOLUTIONS WERE ADOPTED AT THE JOINT REDEVELOPMENT AGENCY/CITY COUNCIL MEETING ON TUESDAY, DECEMBER 2, 2003 at 5:18 P.M:Resolution No. 71855 adopted.